

By: Guillen

H.B. No. 1015

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of big cats and nonhuman primates;
providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 822.116, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (b), a county or municipality subject to Subchapter F as provided by Section 822.152 may not adopt an ordinance or order pertaining to big cats or nonhuman primates that is inconsistent with Subchapter F.

SECTION 2. Chapter 822, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REGULATION OF BIG CATS AND NONHUMAN PRIMATES IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 822.151. DEFINITIONS. In this subchapter:

(1) "Animal control authority" means a municipal or county animal control office with authority over the area in which a big cat or nonhuman primate is kept or the county sheriff in an area that does not have an animal control office.

(2) "Animal shelter" means a municipal or county animal shelter or an animal shelter operated by a nonprofit charitable organization established primarily to shelter and care for stray and abandoned animals and to prevent cruelty to animals.

(3) "Big cat" means:

- 1 (A) a cheetah;
- 2 (B) a cougar;
- 3 (C) a leopard;
- 4 (D) a lion;
- 5 (E) a jaguar;
- 6 (F) a tiger; or
- 7 (G) a hybrid of an animal listed in Paragraphs
- 8 (A)-(F).

9 (4) "Circus" means an exhibitor holding a valid Class
10 C license issued under the Animal Welfare Act (7 U.S.C. Section 2131
11 et seq.) that:

- 12 (A) is temporarily in this state for less than 90
- 13 days in any year;
- 14 (B) regularly conducts performances featuring
- 15 live big cats or nonhuman primates and multiple trained human
- 16 entertainers, including clowns and acrobats; and
- 17 (C) does not allow a member of the public to come
- 18 in direct contact with or to be in proximity to, including for a
- 19 photographic purpose, a big cat or nonhuman primate without
- 20 ensuring there is sufficient distance between the animal and the
- 21 public member and providing protective barriers to separate the
- 22 animal from the public member.

23 (5) "Commercial activity" means:

- 24 (A) an activity involving an animal conducted by
- 25 a person for profit;
- 26 (B) an animal exhibition activity for which a fee
- 27 is charged; or

1 (C) the sale, trade, auction, lease, or loan of
2 an animal or an animal's body parts.

3 (6) "Nonhuman primate" means all species of primates,
4 excluding humans.

5 (7) "Owner" means any person who owns, harbors, or has
6 custody or control of a big cat or nonhuman primate.

7 (8) "Person" means an individual, partnership,
8 corporation, trust, estate, joint stock company, foundation, or
9 association of individuals.

10 (9) "Wildlife sanctuary" means a charitable
11 organization exempt from taxation under Section 501(c)(3),
12 Internal Revenue Code of 1986, and described under Section
13 170(b)(1)(A)(vi), Internal Revenue Code of 1986, that:

14 (A) operates a place of refuge where an abused,
15 neglected, unwanted, impounded, abandoned, orphaned, or displaced
16 wild animal is provided care for the animal's lifetime, is
17 transferred to another wildlife sanctuary, or is released back to
18 the animal's natural habitat; and

19 (B) with respect to any animal owned by or in the
20 custody or control of the organization, does not:

21 (i) conduct any commercial activity;
22 (ii) breed any animal;
23 (iii) use a big cat or nonhuman primate for
24 entertainment purposes or in a traveling exhibit; or

25 (iv) allow a member of the public to come in
26 direct contact with or to be in proximity to, including for a
27 photographic purpose, a big cat or nonhuman primate without

1 ensuring there is sufficient distance between the animal and the
2 public member and providing protective barriers to separate the
3 animal from the public member.

4 Sec. 822.152. APPLICABILITY OF SUBCHAPTER. This subchapter
5 applies to a person possessing a big cat or nonhuman primate in a
6 county or municipality that has a population of at least 75,000.

7 Sec. 822.153. PROHIBITED ACTS. (a) Except as provided by
8 Section 822.154, a person may not own, possess, harbor, sell,
9 transfer, breed, or have custody or control of a big cat or nonhuman
10 primate.

11 (b) A person may not allow a member of the public to come in
12 direct contact with or to be in proximity to, including for a
13 photographic purpose, a big cat or nonhuman primate without
14 ensuring there is sufficient distance between the animal and the
15 public member and providing protective barriers to separate the
16 animal from the public member.

17 Sec. 822.154. EXEMPTIONS. (a) Section 822.153(a) does not
18 apply to:

19 (1) a county, municipality, agency of this state, or
20 agency of the United States or an agent or official of a county,
21 municipality, or agency acting in an official capacity;

22 (2) an institution accredited by the Association of
23 Zoos and Aquariums;

24 (3) a related facility certified by the Association of
25 Zoos and Aquariums that is a participant in a species survival plan
26 program for the breeding of species listed as threatened or
27 endangered pursuant to Section 4, Endangered Species Act of 1973

1 (16 U.S.C. Section 1533);

2 (4) a research facility, as defined by Section 2(e),
3 Animal Welfare Act (7 U.S.C. Section 2132(e)), that is licensed by
4 the secretary of the United States Department of Agriculture under
5 that Act;

6 (5) a wildlife sanctuary that is verified or
7 accredited by the Global Federation of Animal Sanctuaries;

8 (6) an animal shelter that temporarily houses a big
9 cat or nonhuman primate seized under Section 822.157 or on the
10 written request of an animal control authority or a law enforcement
11 agency acting under the authority of this subchapter;

12 (7) a licensed veterinarian who is providing treatment
13 to a big cat or nonhuman primate;

14 (8) a law enforcement officer, including an animal
15 control officer or a county sheriff, who has possession of a big cat
16 or nonhuman primate for law enforcement purposes;

17 (9) a circus;

18 (10) a college or university that displays a single
19 big cat as a sports mascot and that:

20 (A) submits to the Department of State Health
21 Services an affidavit signed by an official of the college or
22 university attesting that the college or university will provide
23 lifetime care for the big cat in a facility that is accredited by
24 the Association of Zoos and Aquariums or in a wildlife sanctuary;

25 (B) maintains liability insurance in an amount
26 not less than \$1 million to cover claims for injury or damage to a
27 person or property caused by the big cat; and

1 (C) began displaying a big cat as a mascot before
2 September 1, 2013;

3 (11) a television or motion picture production company
4 during the filming of a television or motion picture production in
5 this state, provided that the company:

6 (A) has temporary custody or control of a big cat
7 or nonhuman primate; and

8 (B) does not allow a member of the public to be in
9 proximity to the big cat or nonhuman primate without ensuring there
10 is sufficient distance between the animal and the public member and
11 providing protective barriers to separate the animal from the
12 public member;

13 (12) a person temporarily transporting a legally owned
14 big cat or nonhuman primate through this state if:

15 (A) the transit time is not more than 96 hours;

16 (B) the big cat or nonhuman primate is not
17 exhibited;

18 (C) the big cat or nonhuman primate is maintained
19 at all times in a species-appropriate cage or other travel
20 container;

21 (D) the owner of the big cat or nonhuman primate,
22 or a designated carrier or intermediate handler of the animal,
23 complies with all transportation standards that apply to that
24 animal under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.);
25 and

26 (E) the owner of the big cat or nonhuman primate,
27 or a designated carrier or intermediate handler of the animal,

1 complies with all other applicable state, local, or federal laws,
2 including laws requiring a veterinary certificate or other permit;
3 or

4 (13) a person who lawfully possesses a big cat or
5 nonhuman primate before September 1, 2013, provided that:

6 (A) the person complies with the applicable
7 requirements under Subchapter E, including registration, caging,
8 husbandry, inspection, disposition, and notification requirements;
9 and

10 (B) the person does not acquire, by any means,
11 including purchase, donation, or breeding, an additional big cat or
12 nonhuman primate after September 1, 2013.

13 (b) Section 822.153(b) and the other provisions of this
14 subchapter concerning preventing a member of the public from coming
15 into direct contact with or being in proximity to an animal do not
16 prohibit the owner of a big cat or nonhuman primate from allowing an
17 employee of the owner, a licensed veterinarian, or a veterinary
18 student accompanying the veterinarian to come in direct contact
19 with or to be in proximity to the animal.

20 Sec. 822.155. CIVIL PENALTY. (a) A person who violates
21 Section 822.153 is liable to the county or municipality in which the
22 violation occurs for a civil penalty of not less than \$200 and not
23 more than \$2,000 for each animal with respect to which there is a
24 violation and for each day that a violation continues.

25 (b) The county or municipality in which the violation occurs
26 may bring an action to collect the penalty and may also recover the
27 reasonable costs of recovering the penalty and the reasonable

1 investigation costs, attorney's fees, and expert witness fees
2 incurred by the county or municipality, or the animal control
3 authority in the county or municipality.

4 (c) Costs or fees recovered under Subsection (b) for the
5 animal control authority must be credited to the animal control
6 authority's operating account.

7 Sec. 822.156. OFFENSE; PENALTY. (a) A person commits an
8 offense if the person violates Section 822.153. Each animal with
9 respect to which there is a violation and each day that a violation
10 continues is a separate offense.

11 (b) An offense under this section is a Class A misdemeanor.

12 Sec. 822.157. SEIZURE OF BIG CAT OR NONHUMAN PRIMATE. (a) A
13 justice court, county court, or municipal court shall:

14 (1) order the animal control authority to seize a big
15 cat or nonhuman primate and shall issue a warrant authorizing the
16 seizure:

17 (A) on the sworn complaint of any person,
18 including the county attorney, the city attorney, an animal control
19 officer, or a peace officer, that a big cat or nonhuman primate is
20 owned, possessed, harbored, sold, transferred, bred, or controlled
21 in violation of this subchapter; and

22 (B) on a showing of probable cause to believe
23 that the big cat or nonhuman primate is owned, possessed, harbored,
24 sold, transferred, bred, or controlled in violation of this
25 subchapter as stated in the complaint; and

26 (2) schedule a hearing to be held on a date not later
27 than the 10th day after the date the warrant is issued to determine:

1 (A) whether a violation of this subchapter has
2 occurred; and

3 (B) the final disposition of the big cat or
4 nonhuman primate.

5 (b) The officer executing the warrant shall serve written
6 notice of the hearing required under Subsection (a)(2) to the owner
7 of the big cat or nonhuman primate at the time the animal is seized.

8 (c) The animal control authority shall seize the big cat or
9 nonhuman primate and shall provide for the impoundment of the big
10 cat or nonhuman primate in secure and humane conditions until the
11 court orders the disposition of the big cat or nonhuman primate.

12 (d) A big cat or nonhuman primate that has been seized and
13 impounded shall be kept in the custody of an institution accredited
14 by the Association of Zoos and Aquariums, a wildlife sanctuary, or
15 an animal shelter until a judicial determination regarding the
16 disposition of the big cat or nonhuman primate is made.

17 (e) Subsection (d) does not preclude the animal control
18 authority from impounding a big cat or nonhuman primate on the
19 property where the animal is located at the time of the seizure
20 until placement under Subsection (d) is made.

21 Sec. 822.158. FORFEITURE OF BIG CAT OR NONHUMAN PRIMATE.

22 (a) A big cat or nonhuman primate that is considered forfeited by
23 judicial determination or is voluntarily forfeited under
24 Subsection (d):

25 (1) shall be placed by the animal control authority in
26 the custody of an institution accredited by the Association of Zoos
27 and Aquariums or a wildlife sanctuary; or

1 (2) may be humanely euthanized in compliance with
2 state and federal law if an animal control authority, after making a
3 reasonable effort, is unable to find an institution that is willing
4 and able to take custody of a forfeited big cat or nonhuman primate.

5 (b) The court shall assess against the owner of the seized
6 animal the reasonable costs of caring for the seized big cat or
7 nonhuman primate, including the boarding costs and medical care
8 costs.

9 (c) A judicial determination regarding the disposition of a
10 seized big cat or nonhuman primate under this subchapter is final
11 and may not be appealed.

12 (d) Nothing in this section shall be construed to prevent a
13 person from voluntarily forfeiting the big cat or nonhuman primate
14 to an institution accredited by the Association of Zoos and
15 Aquariums or a wildlife sanctuary.

16 (e) Voluntary forfeiture under Subsection (d) has no effect
17 on criminal charges brought under this subchapter.

18 Sec. 822.159. INJUNCTION. (a) A person who is directly
19 harmed or threatened with harm by a violation of this subchapter or
20 a failure to enforce this subchapter may sue an owner of a big cat or
21 nonhuman primate to enjoin a violation of this subchapter or to
22 enforce this subchapter.

23 (b) The county or municipality in which a big cat or
24 nonhuman primate is kept may sue an owner of the animal to enjoin a
25 violation of this subchapter or to enforce this subchapter.

26 Sec. 822.160. EFFECT OF SUBCHAPTER ON OTHER LAW. (a) This
27 subchapter does not prevent a county or municipality from adopting

1 or enforcing an ordinance, order, rule, or other legal requirement
2 that places additional restrictions on the ownership, possession,
3 harboring, sale, transfer, breeding, or custody or control of big
4 cats or nonhuman primates.

5 (b) This subchapter does not affect the applicability of any
6 other law, rule, order, ordinance, or other legal requirement of
7 this state or a political subdivision of this state.

8 SECTION 3. Section 822.153, Health and Safety Code, as
9 added by this Act, applies only to an offense committed on or after
10 the effective date of this Act. An offense committed before the
11 effective date of this Act is governed by the law in effect on the
12 date the offense was committed, and the former law is continued in
13 effect for that purpose. For purposes of this section, an offense
14 was committed before the effective date of this Act if any element
15 of the offense occurred before that date.

16 SECTION 4. This Act takes effect September 1, 2013.